

**STATE OF SOUTH CAROLINA
COUNTY OF JASPER**

EMERGENCY ORDINANCE # 2020-__

**AN EMERGENCY ORDINANCE OF JASPER COUNTY COUNCIL
REQUIRING THAT FACE COVERINGS OR MASKS BE WORN IN
PUBLIC IN THE UNINCORPORATED AREAS OF JASPER COUNTY
DURING THE COVID-19 PUBLIC HEALTH EMERGENCY AND
RECOVERY.**

WHEREAS:

1. The 2019 Novel Coronavirus (“COVID-19”) is a respiratory disease that can result in serious illness or death by the SARS-CoV-2 virus, which is a new strain of coronavirus previously unidentified in humans and which can spread from person to person; and
2. The World Health Organization declared COVID-19 a Public Health Emergency of International Concern on January 30, 2020, and on March 11, 2020, the World Health Organization declared a world-wide pandemic; and
3. The Centers for Disease Control and Prevention (the “CDC”) has warned of the high public health threat posed by COVID-19 globally and in the United States; and
4. On January 31, 2020, the United States Department of Health and Human Services Secretary declared a public health emergency in the United States as a result of COVID-19 under Section 391 of the Public Health Service Act; and
5. On March 13, 2020, the President of the United States declared that the COVID-19 outbreak in the United States constitutes a national emergency, which began on March 1, 2020;
6. On March 13, 2020, the Governor of the State of South Carolina (the “State”) issued Executive Order 2020-08, declaring a State of Emergency based on a determination that the COVID-19 poses an actual or imminent public health emergency for the State; and
7. On March 13, 2020, the Governor of the State of South Carolina Henry McMaster declared a state of emergency for the State of South Carolina; and
8. The Governor of the State has subsequently declared a continued State of Emergency in Executive Orders 2020-15 (March 28), 2020-23 (April 12), 2020-29 (April 27), 2020-35 (May 12), 2020-38 (May 27), and 2020-40 (June 11);
9. If COVID-19 cases continue to increase in the State and in Jasper County, the demand for medical, pharmaceutical, personal, and general cleaning supplies may overwhelm sources of supply; the private and public sector work force may be negatively impacted by

absenteeism; and the demand for medical facilities may exceed locally available resources;

10. Health authorities, including the CDC, the Surgeon General of the United States, and DHEC have recommended the use of face coverings as a means of preventing the spread of COVID-19; and
11. S.C. Code § 4-9-130 provides that “[t]o meet public emergencies affecting life, health, safety or the property of the people, council may adopt emergency ordinances ... by the affirmative vote of at least two-thirds of the members of council present. An emergency ordinance is effective immediately upon its enactment without regard to any reading, public hearing, publication requirements, or public notice requirements. Emergency ordinances shall expire automatically as of the sixty-first day following the date of enactment;”
12. Jasper County Council has determined, based on the recommendations of public health experts and responsive to a serious threat to the public health, safety, and welfare of its citizens, that it would serve the public interest and be within Jasper County’s police powers under Home Rule and S.C. Code § 4-9-30 to require that individuals wear face coverings in certain situations and locations;
13. The South Carolina Attorney General, on June 25, 2020, issued a public statement that enacting local mask requirements is within the police power of local governments and is not preempted by State law;
14. S.C. Code Ann. §4-9-130 empowers Council to enact emergency ordinances affecting life, health, safety, or property; and
15. COVID-19 has spread across the state with the South Carolina Department of Health and Environmental Control (“SCDHEC”) confirming the localized person-to-person spread of COVID–19 in South Carolina, which indicates a significantly high risk of exposure and infection creating an extreme public health risk; and,
16. As of June 29, 2020, the daily report of COVID cases at 1,303 was the highest to date and there were 36,297 confirmed cases throughout the State of South Carolina, with 132 cases in Jasper County (with a total estimated number of cases at 811), with 735 deaths statewide, and 3 deaths in Jasper County; and
17. Forty-six percent of the total of all SC cases have occurred in the two weeks prior to June 24, 2020, and SCDHEC has reported the number of new cases in Jasper County in the past two weeks to be in the “Greatly Increasing” category, with more than a 300% increase; and
18. Jasper County is located on the I-95 corridor with multiple exits, and as such is exposed to visitors from across our country and is particularly vulnerable to infection; and
19. The number of cases is growing rapidly, and if COVID-19 continues to spread in the County, the number of persons relying on medical, pharmaceutical, and general cleaning supplies will increase, the private and public sector work force will be negatively impacted by absenteeism, and the demand for medical facilities may exceed locally available

resources; and

20. It is vitally important that we all work together to decrease the widespread proliferation of COVID-19 among us all now rather than suffer the unfortunate and devastating consequences later; and
21. The Centers for Disease Control and Prevention (“CDC”) and SCDHEC advise the use of face coverings to slow the spread of COVID-19; and
22. Taking measures to control outbreaks minimizes the risk to the public, maintains the health and safety of the County’s residents, and limits the spread of infection in our communities and within the healthcare delivery system; and
23. In order to protect, preserve, and promote the general health, safety and welfare and the peace and order of the County, the County is taking steps to try to protect the citizens and employees of the County from increased risk of exposure; and
24. In light of the foregoing, County Council deems it proper and necessary to adopt this emergency Ordinance; and
25. This Ordinance has been approved by at least two-thirds of the Councilmembers present at the meeting in which it was considered;

NOW, THEREFORE, BE IT ENACTED BY THE JASPER COUNTY COUNCIL AS AN EMERGENCY ORDINANCE ON THIS DATE THAT:

Facial coverings or masks shall be required in public places and public buildings within the County to slow the spread of the novel coronavirus disease, known as COVID-19 as follows:

1. Definitions. As used herein, the terms below shall have the following meanings:
 - a. “Establishment” means a Foodservice Establishment, Retail Establishment, or Service Establishment.
 - b. “Face Covering” means a uniform piece of cloth, fabric, or other material that securely covers a person’s nose and mouth and remains affixed in place without the use of one’s hands. Face Coverings include, but are not limited to, bandanas, medical masks, cloth masks, scarves, and gaiters, provided that they are worn such that they securely cover the person’s nose and mouth.
 - c. “Foodservice Establishment” means any establishment within the unincorporated area s of Jasper County that sells prepared food on a dine-in, delivery, carry-out, or drive-through basis, and includes Drinking Places where beer, wine, liquor or other alcoholic beverages are served for on-premise consumption.
 - d. “Responsible Person,” with respect to an Establishment, means any individual associated with the Establishment who has the authority and ability to enforce the requirements of the Ordinance within the Establishment, such as an owner, manager,

- or supervisor. “Responsible Person” may also include an employee or other designee that is present at the Establishment but does not have the title of manager or supervisor, but who has the temporary or designated authority and ability to ensure that the requirements of this Ordinance are met while the Establishment is open to the public.
- e. “Retail Establishment” means any retail business, organization, establishment, or facility open to the public within the unincorporated areas of Jasper County, including without limitation:
- i) grocery stores, convenience stores, and any other establishment engaged in the retail sale of non-prepared food;
 - ii) commercial stores engaged in the retail sale of goods or services to the public including without limitation sporting goods stores; furniture and home-furnishings stores; clothing, shoe, and clothing-accessory stores; jewelry, luggage, and leather goods stores; department stores; hardware and home-improvement stores; book, craft, and music stores; florists and flower stores; and all other stores that sell supplies for household consumption or use;
 - iii) pharmacies and other stores that sell medications or medical supplies;
 - iv) alcoholic beverage stores; and
 - v) laundromats.
- f. “Service Establishment” means any commercial business, organization, establishment open to the public within the unincorporated areas of Jasper County providing services to the public, including, without limitation,
- i) Banks, credit intermediation, pawn shops, or other financial services providers;
 - ii) Insurance offices;
 - iii) Medical services, including physician or dentist’s offices (public areas, such as waiting rooms);
 - iv) Veterinary and pet services;
 - v) Public areas and lobbies of accommodation providers (hotels, motels, etc.)
 - vi) Other Services included within Sector 81 of the North American Industrial Classification System, excluding Public Administration
2. All persons entering an Establishment in the County must wear a Face Covering while inside the enclosed area of the Establishment. This paragraph does not apply to religious establishments. However, the use of face coverings is recommended during religious activities as well.
3. All Establishments in the County shall require staff to wear, and those staff shall wear, Face Coverings while working in areas open to the general public and areas in which interactions with other staff are likely in which social distancing of at least six feet cannot be observed;
4. Any person who is unable to safely wear a face covering due to age, an underlying health condition, or is unable to remove the face covering without the assistance of others is exempt from this Ordinance.

5. Face coverings are not required in the following circumstances:
 - a) in outdoor or unenclosed areas appurtenant to Retail Establishments or Foodservice Establishments in which social distancing of at least six feet is possible and observed;
 - b) for people whose religious beliefs prevent them from wearing a Face Covering;
 - c) for those who cannot wear a Face Covering due to a medical or behavioral condition where the Face Covering causes or aggravates a health condition (i.e., asthma or the like);
 - d) for children under the age of four years old, provided that adults accompanying children age four or older shall use reasonable efforts to cause those children to wear Face Coverings while inside the enclosed area of any Establishment;
 - e) while actively drinking, eating, or smoking;
 - f) in private, individual offices;
 - g) when complying with directions of law enforcement officers;
 - h) in settings where it is not practical or feasible to wear a Face Covering, including when obtaining or rendering goods or services such as the receipt of dental services or while swimming;
 - i) while exclusively with members of a family or the same household, and no person other than such family or household is within the same enclosed area.
 - j) Anyone who has trouble breathing, or is unconscious, incapacitated or otherwise unable to remove the mask without assistance.
 - k) In personal vehicles.
 - d) During outdoor physical activity, provided the active person maintains a minimum distance of six (6) feet from other people at all times.
 - e) When a person is alone or only with other household members.
5. A person who fails to comply with Paragraph 2 of this Ordinance shall be guilty of a civil infraction, punishable by a fine of not more than \$25.00.
6. A person who fails to comply with Paragraph 3 of this Ordinance shall be guilty of a civil infraction, punishable by a fine of not more than \$100.00. Each day of a continuing violation of this Ordinance shall be considered a separate and distinct offense. Repeated violations of this Ordinance are additionally hereby declared to be a public nuisance, which may be abated by the County by restraining order, preliminary and permanent injunction, or other means provided for by the laws of this State. In addition to the penalties established by Section 6 hereof, repeated violations of this Ordinance by a Responsible Person by failing to require employees of the Establishment to wear a Face Covering may, subject to all procedural protections set forth in the Jasper County Code of Ordinances, result in the suspension or revocation of any occupancy permit or business license issued to business where the repeated violations occurred. The foregoing notwithstanding, every effort shall be made to bring the business into voluntary compliance with the terms of this Ordinance prior to the issuance of any citation or the commencement of additional enforcement actions.
7. Establishments and Responsible Persons shall have a duty to enforce the provisions of this Ordinance only against employees of the Establishment. Without limiting the generality of the foregoing, no Establishment or Responsible Person shall have any duty to require that customers, visitors, or other members of the general public wear Face Coverings.

8. During the Emergency Term (as defined in Section 10 below), any ordinance, resolution, policy, or bylaw of Jasper County that conflicts with the provisions hereof shall be and is hereby suspended and superseded.
9. Should any provision, paragraph, sentence or word of this Ordinance be rendered or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, paragraphs, sentences, or words of this Ordinance as hereby adopted shall remain in full force and effect.
10. This Ordinance is effective as of 6:00 a.m., Tuesday, July 7, 2020, and this Emergency Ordinance may be terminated by another ordinance terminating same; and if not terminated sooner shall expire automatically as of the sixty-first day following the date of enactment (the "Emergency Term"). Notwithstanding the foregoing, however, Council may extend the Emergency Term by emergency ordinance for one or more additional terms, each of no more than sixty days.

Henry Etheridge
Chairman

ATTEST:

Tisha Williams
Acting Clerk to Council

ORDINANCE: 2020-__

First Reading: _____
Second Reading: _____
Public Hearing: _____
Adopted: _____

Reviewed for form and draftsmanship by the Jasper County Attorney.

David Tedder

Date